



October 17, 2008

Notice of Public Hearing
**To Consider the Adoption of a Temporary Standard for Gelato Pursuant
to Food and Agricultural Code sections 36631 through 36638**

The Milk and Dairy Food Safety Branch (hereinafter "the Branch") of the California Department of Food and Agriculture (hereinafter "CDFA") is calling a public hearing to receive comment as to whether a temporary standard for gelato, as set forth in the amended petition submitted by GMSX LLC dba Gelateria Naia on August 21, 2008, should be adopted.

A copy of the petition is located on the CDFA website at <http://www.cdfa.ca.gov/ahfss/regulations.html>. If you do not have Internet access, the Branch will provide you with a copy of it by fax or other means of delivery. Please contact the Branch at (916) 654-0773 in order to request a copy.

Food and Agricultural Code section 36632, subd. (b) provides that, upon the request of any interested person, CDFA may grant a temporary standard for an initial period of one year for a new milk product or product resembling a milk product. Section 36632, subd. (b) requires that the petition "shall include a proposed definition, standard, nomenclature, and label for the new product". CDFA has determined that the petition of GMSX LLC, as amended, satisfies the requirements of this section.

As provided by Food and Agricultural Code section 36632, subd. (a), the public hearing shall be conducted by written brief, unless an oral hearing is specifically requested by an interested person. **Briefs must be received by the Branch before the close of the public hearing at 5:00 p.m. on Wednesday, October 29, 2008. Briefs may be sent via mail, delivered in person or faxed to the Branch at (916) 653-7512.**

Consistent with Food and Agricultural Code section 36633, the hearing shall be conducted to determine whether:

- (1) the product proposed for a temporary standard qualifies for that standard; and
- (2) whether a temporary standard has been properly sought for the proposed product definition, standard, nomenclature, and label offered by the petitioner.

Following the hearing, as set forth in Food and Agricultural Code section 36633, subd. (b), CDFA shall evaluate the temporary standard request on the basis of all of the following:

- (1) testimony submitted by interested persons;
- (2) the health and safety conditions under which the proposed product will be processed and distributed; and
- (3) existing definitions and standards for comparable products, if they exist.

Accordingly, respondents to this hearing notice are respectfully requested to address these issues, if possible, in their written briefs.



If CDFA subsequently decides, after the hearing, to grant the petition, it shall establish an appropriate definition and nomenclature as well as quality and labeling requirements applicable to the permitted product pursuant to Food and Agricultural Code section 36633, subd. (c). CDFA shall notify petitioner of its decision not later than 30 days following the close of the hearing. It shall also post the decision on its website, <http://www.cdfa.ca.gov>. A temporary standard approved by CDFA shall take effect upon being adopted as an emergency regulation as set forth in Food and Agricultural Code sections 36634 (d) and 36637.

If you have questions regarding this hearing, please call the Branch at (916) 654-0773.

Sincerely,

A handwritten signature in black ink, appearing to read "S. Beam", with a stylized, cursive script.

Dr. Stephen Beam, Chief
Milk and Dairy Food Safety Branch